

## **Guidance Note D8: Processes for Handling Requests for Information**

(This guidance note should be read in conjunction with any local guidance)

### **Outline of how to handle requests for information**

1. Within MOD we deal with requests for information everyday. The FOI Act seeks to ensure that public authorities are following the principles of open government by mandating in law certain standards.

1.1 The basic process for handling requests can be broken down into a number of simple steps. How these steps are carried out will vary on a case-by-case basis. The process is outlined below:

- Identify that a request has been received and clarify its meaning. If necessary engage with the requestor from an early stage either by e-mail or telephone. Provide applicants with as much help as possible to obtain the information that they want
- Transfer the request to the correct part of MOD
- Identify the correct handling process
- Find the information requested, or establish that it is not held
- If it is an FOI request try to reduce the scope of broad requests to information that can be provided within the appropriate limit (for FOI this cost limit is set for central government at £600.00).
- Create the response
- If any information is to be withheld using an FOI exemption it must be authorised at 1\*
- Keep a copy of the request and any information released, along with any associated documentation (e.g. relating to applying the public interest test) for 5 years. This will be required in the event of an appeal.
- Remember that you are responding on behalf of the department and must consult with other areas as necessary.

### **What is a request?**

2. The first step is to identify that a request has been received. In the vast majority of cases it will be obvious that a request has been submitted, but there will be times in which a request is contained within an item of correspondence that is not immediately obvious.

2.1 The terms of the Act are broad: every written request for information should be treated as a FOI request, even if the Act is not mentioned. This does not mean that a draft answer to a PQ or a reply to an e-mail requesting a leaflet will have to refer to the FOI Act. It simply means that the principles of the Act must be applied to every written request for information, forming the minimum standard of any response.

2.2 In practice there is a distinction between requests and routine correspondence. If a letter from one of your business contacts (such as a contractor or another government department) includes a request for information, it will not usually be necessary or appropriate to handle this in accordance with the legislation. Similarly simple requests for information that can be provided without any question (e.g. recruitment brochures, press releases, and the text of public speeches) do not need to be tracked via the Access to Information Toolkit (AIT). Business as usual should be dealt with as it is at present.

2.3 As a 'rule of thumb':

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- If any of the information requested cannot be disclosed without active deliberation then the request should be formally tracked via the Access to Information Toolkit (AIT). Once the request has been received by CIO-Info Access, the FOI Focal Point will receive an e-mail alert acknowledging that the request is now on the AIT. See Annex A.
- If information may have to be withheld the request **must** be logged on the AIT.

2.4 To be a valid FOI request, the correspondence must be in permanent form with a return name of the applicant and an address (postal or e-mail) for correspondence, be legible, and describe the information requested. The IC has issued guidance on requests made using pseudonyms (false names). Such requests can involve names on a spectrum from 'Mickey Mouse' to 'John Smith'. You are entitled to treat as invalid an FOI request where the real name of the applicant (whether an individual or a corporate body) has not been used. The IC's guidance is at: [http://www.ico.gov.uk/upload/documents/library/freedom\\_of\\_information/detailed\\_specialist\\_guides/name\\_of\\_applicant\\_fop083\\_v1.pdf](http://www.ico.gov.uk/upload/documents/library/freedom_of_information/detailed_specialist_guides/name_of_applicant_fop083_v1.pdf)

2.5 Requests for information made over the telephone are not valid requests under FOI, even if the Act is quoted. **This distinction is not pedantry.** If the request is not made in a permanent format, neither you, nor the applicant, can refer back and ensure that the answer fits the initial request. We have a duty to assist requesters, to be helpful and to ask applicants to make requests in writing or if they are unable to do so, to make a note and confirm with the requester that this captures their request. Requests made by telephone should not be denied merely because they are not written. *Further information on the duty to advise and assist is contained in Guidance Note D3*

2.6 Please note that, if the request is for environmental information then the EIRs require us to accept a request over the telephone. The guidance in the paragraph above still applies. We should, as a matter of course, take a written note of the request and confirm with the requester that this captures the details. In practice, this common sense approach should avoid difficulties.

### Transferring the request to the correct part of MOD

3. Once a request has been received, the next stage is to pass the request to the lead branch on the subject of the request. There are a number of scenarios to consider:

- The request has clearly been sent to the right part of MOD in the first instance. In this case it must be logged onto the AIT and the lead branch should ensure that the request is dealt with as quickly as possible, consulting other parts of MOD likely to hold information on the subject of the request as required.
- The request has been sent to a part of MOD that is not the lead on the subject but it is clear where the lead for the request should lie. In this case, the receiving branch should pass the request to the lead branch as quickly as possible. The usual method for doing this will be to pass the request to the local FOI contact within the organisation, who will log the request on AIT and transfer the request to the appropriate lead branch.
- The request has been sent to MOD and it is clear that no part of the MOD holds information on that subject. A particular example might be information on Nuclear Test Veterans which has now all been passed to the National Archives. In that case we respond that MOD holds no information on that subject and, quoting the duty to advice and assist, direct the requester to the National Archives as the likely holder of information on that subject.
- The request has been sent to MOD and it is not clear which part of MOD would lead on the subject of the request or if the request spans several subject areas. In this case, the request should be passed to the local FOI contact who will log the request and identify which part of MOD should lead. The AIT incorporates both a database of all previous

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requests and a Subject Index, which will help to identify the lead branch. Failing that, the request will be passed up through the Focal Point network and the lead resolved.

- The request is a “round robin” or has cross government implications. Any request which potentially comes into this category must be referred to the MOJ Clearing House via CIO Access Ops. *See Guidance Note D4: Requests with wider implications*

3.1 It is important that this step is carried out as quickly as possible. That means that procedures should be in place to ensure that all correspondence is handled promptly and in particular, arrangements are in place to ensure that e-mail accounts that can receive external email are regularly checked. The 20 working days permitted for responding starts as soon as the request is received anywhere in MOD, not when it reaches the correct branch.

3.2 A network of FOI Focal Points has been established across MOD to ensure that requests are transferred to the correct part of MOD as quickly as possible. If in doubt, talk to your Focal Point. It is important that when handling a request that they are kept informed as to progress with the request. *See related documents for a list of FOI Focal Points.*

## FOI Ministerial Correspondence: FOI from a Parliamentarian

4. If a communication is received from a Parliamentarian (MP, Peer, MEP, Member of a Devolved Legislature or from their staff) which includes a request for recorded information, then this needs to be treated differently from the process set out in Ministerial Correspondence guidelines. It should be treated as a request for information (RFI) under the Freedom of Information Act; placed with a subject matter expert/Focal Point (SME/FP) through CIO Access Operations; and recorded on the Access to Information Toolkit (AIT). However, unlike replies to other FOI requests, the response must be sent from a Minister, hence requiring a Ministerial Submission from the SME/FP. This type of request is called an ‘MC FOI’.

4.1 **CIO- CI-Access Ops must inform the SME or FP that the request for recorded information has come from a Parliamentarian;** it must therefore be treated as an ‘MC FOI’; Please see Annex B for a summary of information which should be sent in parallel.

## Identifying the correct handling process

5. The primary access regimes are the FOI Act, EIRs and DPA. The following covers FOI and EIR. Requests made for personal data belonging to the applicant are dealt with under the Subject Access Request guidance issued by the CIO Info-Access DPA section (*see Guidance Note B2: Data Protection Act*). It may not be possible at the time of request to know if a request is for environmental information or not, this should be clear once the information within scope of the requests has been identified. (*see Guidance Note B3 for definition of environmental information*).

5.1 Once it has been established that a request for information has been made and the lead branch has the request, the next step is to identify if the request: is “business as usual”; raises issues about disclosure of the information requested; relates to environmental information; or is personal data. Whilst it is not possible to cater for every possible circumstance, the table below is a guide to the issues that should be considered when assessing how to handle the request and what process should be used. Again this part of the guidance should be read in conjunction with your local guidance.

5.2 FOI Focal Points and cells within TLBs and Trading Funds should use the system to track the progress of those requests that need to be handled more formally. Where the table refers to tracking via the AIT, desk officers should consult their local FOI contact for further information on handling.

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	TYPE OF REQUEST	ACTION IF 'YES'
1	The request is in the form of a PQ, Ministerial Correspondence, or Treat Official Correspondence.	Follow timescales and processes set by Parliamentary branch/MCU and see Parliamentary Branch website for further guidance.  N.B. That information may only be withheld in reply to a PQ etc if a FOI exemption or EIR exception applies.
2	Release of the information requested, will require authorisation by a Senior Civil Servant or military equivalent.	The request should be logged on the AIT and the authorisation for release recorded  N.B. you must ensure you have the appropriate authority to disclose information
3	Part or all of the information requested is likely to be withheld.	The request must be tracked via the AIT. Any refusal of information must be done in accordance with FOI or EIR procedures and recorded. When responding to a FOI request authorisation at 1* is required when applying an FOI/ EIR qualified exemption  N.B. That information may only be withheld where an appropriate FOI exemption/EIR exception applies.
4	Reply within the 20 working day timescale is likely to prove difficult.	The request must be tracked via the AIT.
5	The same/similar information was released in response to a previous request.	The request must be tracked via the AIT.  N.B. If there is evidence of significant public interest, consideration should be given to publishing the information through the Publication Scheme.
6	The information is already available to the public (i.e. via the Publication Scheme).	The request must be tracked via the AIT.  N.B. In this circumstance it will be possible to cite s.21 exemption (Information accessible to applicant by other means), but this will need to be done in accordance with FOI exemptions/EIR exceptions. The reply should provide the applicant with a reference to where the information can be found. Consideration can also be given to providing a copy of the information if it is appropriate to do so, but it is important to state that the information is already available by another means.
7	The request is from a member of the public who has previously sent a request on the same topic which was declared 'vexatious' under s.14 of the Act.	The request must be tracked via the AIT.

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8	Request specifically mentions the FOI Act/EIRs.	Check if it is a genuine request, and if so the request must be tracked via the AIT. If it is not, the reply must clearly state that although the RFI mentions the FOI/EIRS it is not being treated as such.
9	The request needs to be passed to a different branch or another public authority for reply.	The request must be tracked via the AIT.
10	The request is from an elected representative (e.g. an MP/MEP/MSP/ Local Authority Councillor)	See MC FOI guidance at Annex B —track via AIT
11	The request refers to a contentious issue/ current event attracting public/media attention, or a subject on a local or central list of sensitive issues (such as matters affecting security, current operations, or with a clear political dimension).	The request must be tracked via the AIT. See <a href="#">DIN 2008DIN03-020</a> for guidance. Ensure press office is kept informed of any high profile cases.
12	The request is for an internal review of a previous decision to withhold information.	This request must be passed to the Head of Corporate Information Access review team for handling.
13	The information requested bears a security classification or other protective marking.	The request must be tracked via the AIT. N.B. The downgrading of protectively marked information must be done iaw the relevant security regulations.
14	The request is for information provided by a third party (e.g. a contractor, another country or an external organisation).	The request must be tracked via the AIT. It is important to consult third parties about the release of their information. Where the information comes from a commercial partner then the advice in the <i>MOD FOI Commercial Guidance</i> should be followed. Where the information comes from another government, consider if disclosure is likely to prejudice the UK's relations, or whether it has been provided in confidence. A reasonable expectation that the information will be held in confidence is sufficient for it to be withheld under s.27 (prejudice to international relations) .
15	A large volume of information has been requested (e.g. all information relating to...)	The request should be tracked via the AIT. The requestor should be contacted to clarify the exact requirement. If the request is still too wide and likely to attract the £600 appropriate limit, then a s.12 refusal notice should be given, along with advice on how to refine the request where possible.
16	The request is for information for which a charge will be mad	The request must be tracked via the AIT.

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17	The request is made orally.	If the request is for 'environmental' information, the request should be recorded and confirmed with the requester. If the request falls into one of the other categories listed then the request may be tracked via the AIT. If the request is for other information, the applicant should be advised to submit the request in writing, you may need to give advice on how this should be done.
18	The request is for commercial information	Disclosure of any commercial information, particularly if supplied by or relating to industry, or which might reasonably be considered to harm MOD or industry's commercial interests, must be authorised at 1* level after following the processes set out in the <i>:MOD FOI Commercial Guidance.Note</i> . All requests in this category should be captured in the AIT.
19	The information requested meets one of the "triggers" laid out by the clearing house	Contact <b>CIO CI Access Ops1</b> immediately and complete a Clearing House referral form.

Remember that this list is not exhaustive. In any other circumstance where you feel that a request merits special attention, the details should be recorded onto the AIT. For FOI Focal Points who do not have access to the AIT, use the workaround application "FOI Request Register Web Application".

**5.3 Dealing with Multiple Requests.** It may be tempting to deal with a number of strands of correspondence in a single letter. Although this has attractions, it does not fit easily into the scheme of the Act, which is concerned with a single request. It is, therefore, preferable to deal with separate requests in individual letters, even if that means sending several letters to the same person on one day.

**Estimating costs and informing the applicant**

6. Charging and applications of the fees regulations are covered in more detail in *Guidance Note D9*. The principles of charging for requests for information and the differences between requests under FOI and EIR bear repetition here.

6.1 The regulations for charging under FOI include a concept of the 'appropriate limit'; for central government this is set at £600.00. Requests that would cost more than this to comply with are exempt under s.12 of the FOI Act. This does not apply for environmental information.

6.2 Where the cost of complying with the RFI would be below the appropriate limit, MOD should comply. Therefore it is important that the cost of compliance is estimated as accurately as possible and the applicant informed if it is likely to be above the appropriate limit. It is important to keep a record of how the estimate was arrived at. The applicant should be offered advice and assistance to narrow down their request so that it is within the appropriate limit if appropriate (*see Guidance Note D3*). The AIT will generate an appropriate exemption notice if the request would still be above the appropriate limit. As ever, if in doubt, refer to your local FOI Focal Point.

## **Find the information requested**

7. This is the critical part of handling the request. The obligation on MOD is to provide all the information that it holds that is relevant to the request. In a public authority the size and complexity of MOD, this is a challenge. Lead branches have a responsibility to ensure that they are considering all information relevant to the request held by MOD, not just that which they hold in branch. **Section 1(1) of the FOI Act states that an applicant is entitled to be informed in writing by a public authority whether it holds information of the description specified in the request, or not. Therefore the first step in any FOI response is to establish if MOD holds the information requested.**

## **Information that can be requested under the FOI Act and EIRs**

7.1 Any information that the MOD holds in permanent format can be the subject of a request under FOI or EIR, except personal data (which can only be disclosed to the data subject under the Data Protection Act). (*Further information on the DPA is contained in Guidance Note B2*). Applications can be made for any information we hold, even that received from third parties such as foreign governments, contractors, etc.

7.2 The fact that the FOI Act and EIRs cover all information held by the MOD does not mean that we have to keep every document produced in the course of our work. However, it is a criminal offence to destroy material because it has been requested under FOI, EIR or the DPA.

## **How to find information**

7.3 This will be a matter for local guidance to cover, but as a minimum the lead branch should consider the following sources of information:

- Information held in filing systems both paper and electronic
- Information held on computers and IT networks including within email accounts, personal drives, removable media or other storage systems
- Unstructured paper information, this may include notebooks, logbooks, information contained in wall charts and the like
- Information on video/audio tapes
- Information stored in archives including local archives, site archives (for instance at DPA Abbey Wood), corporate archives (including the main MOD and TS Archives)
- Information held by other parts of MOD where it is known that information on that subject may be held. Reasonable efforts should be made to ask other parts of MOD to look for information if it is likely that the information requested is held by them.

7.4 The AIT has a history of most requests made under FOI and EIRs and thus can point desk officers to previous responses to similar questions and show what information sources were searched and where information was found. The FOI Focal Point network will also be able to assist those searching for information, as they will have built up expertise in how requests are handled and what information resources need to be searched.

7.5 The AIT will prompt users to record what efforts were made to find information requested. This will be especially important if the response is that we do not hold information requested. In the event of an appeal, MOD needs to be able to show it made a reasonable effort to find the information.

7.6 The Defence **Corporate Memory** Team, with its two sub-branches, Analysis and Records, should be contacted if advice is needed about any question arising from a request for information

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relating to MOD historical records, or records-related issues. Information and advice can be obtained by contacting a member of the team on xxxxxxx (Analysis) or xxxxxxx (Records).

**Analysis**, which includes the former Historical Branch (Army) is primarily responsible for the provision of research, analysis and advice as part of the Defence Corporate Memory in support of current defence issues for MOD Head Office; in support of operational planning and recording for PJHQ; in providing a pan-defence role in support of land warfare and Army matters; the effective maintenance of the Defence Corporate Memory.

The **Records** team is primarily responsible for the provision and governance of MOD's policy for corporate records management, which supports MOD's business. A key feature being the 'Lifecycle of the Record' from creation to disposal, including through transfer to The National Archives. This 'cycle' is applicable to records/information in any form, whether paper, or electronic.

### **The MOD Archive**

7.7 TNT UK Ltd holds the contract for the MOD archive for records which have up to a SECRET classification and is responsible for the delivery and transport of files to key MOD locations in London and to Glasgow, Norcross, Bristol and Droitwich. The ownership of records stored by TNT Ltd will remain with MOD. All policy matters regarding retention, review and destruction of material will be the responsibility of Corporate Memory.

The security classification of material to be stored by TNT will remain as at present and will be limited to material no higher than 'Secret'.

Contact details for depositing new files and for retrieving and returning files is:

- a) By post: Helpdesk, TNT Archive Services,  
Tetron Point,  
William Nadin Way,  
Swadlincote Derbyshire, DE11 0BB
- b) By Fax: xxxxxxxxxxxxxx
- c) By e-mail: xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

TNT operates a **help desk** facility for enquiries concerning the deposit of new files and for retrieving and returning files. The telephone number for the help desk is xxxxxxxxxxxxxx.

### **Creating the response**

8. Once the information has been retrieved, the next step is to assess the information and its release. FOI and EIRs both start with a presumption of disclosure, but the nature of MOD's information means that care must be taken to protect sensitive information. Some of the issues that should be considered when assessing the information are:

- Is the information relevant to the request? The FOI Act provides for access to information not documents, however, if documents have been requested then they should be provided where possible. If the request is simply for a piece of information contained in a document, thought should be given to the most efficient method of responding. It may be better to return an extract of a document rather than removing large chunks of irrelevant or exempt information.
- Has the requestor expressed a preference for the format of the information? Where it is reasonable to do so, then we should comply with that request. This may cover a summary of a document or inspection of the information on site. Where we are not intending to

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comply with their request then this should be noted in AIT along with the reasoning why it is not possible.

- Does the information contain personal information? Many documents contain personal information. Care should be taken to ensure that documents with personal information within them are not released without applying the correct DPA or FOI exemptions.
- Is the information requested protectively marked? Protective markings do not exempt the information from disclosure under FOI or EIRs. However, they should act as a warning that there may be sensitive information that will require consideration of exemptions. JSP 440 (the Manual of Defence Security) sets out how protectively-marked information should be handled and downgraded if appropriate and this should be followed. Protectively-marked information held on IT systems will also need to be reviewed and downgraded, following the approved procedures if it is not exempt from release.
- Is the information being considered for release from a third party? Whilst the decision to release or withhold is the responsibility of MOD, we are obliged to consult the owner of the information about any potential issues with its release. This does not give the third party a right of veto but it may highlight issues that mean that an exemption could apply (e.g. relating to information provided in confidence. When applying s27 (prejudice to international relations) prejudice may lie in simply making relations more difficult, even if the response from any other nation to the release of information is not known, and difficult to predict. Take care with information that has been provided by another nation, or international organisation. *See Guidance Note E1: Withholding information.* NB this consultation must take place as quickly as possible as the 20 working days 'clock' does not stop during this consultation.
- If further time is required to consider the balance of public interest in applying a qualified exemption under the FOI Act then the applicant should be informed in writing that this is the case, told which exemptions are being considered and the timescale within which the decision is expected to be reached. Note that this is the only reason that the 20 working day deadline can be extended under FOI.
- Is likely to take longer than 20 days to respond to a request for environmental information? If the information requested is environmental then MOD may only take longer than 20 working days to respond to a request if the complexity and volume of the information requested makes it impracticable for it to either comply or make a decision to refuse the request. In such cases the period for responding to the applicant may be extended to 40 working days. The applicant must be so informed.
- Does the response cover topics or information that are of relevance to other business areas of the MOD? If so, draft responses should be copied to the relevant branch. It is important to work together to ensure that information which is put in the public domain (and therefore, potentially, in the press) is correct, consistent and doesn't take anyone by surprise.
- Is the information unlikely to be obtained within 20 working days because it is held abroad or by people actively involved in operations? If so, we can apply to the IC for an extension to the deadline. Contact CIO Information Access as soon as possible with a full explanation of why the deadline cannot be met. A decision will then be taken on whether an approach to the IC is necessary.

### Identify and authorise the removal of any information that is to be refused

9. There may be a need to remove some of the information requested for a variety of reasons. Under FOI and EIRs there is provision to refuse information in certain circumstances (exemptions

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under FOI and exceptions under EIRs). *Guidance Notes E1 to E7 explain the scope and use of each of the exemptions and exceptions.*

9.1 The steps that need to be taken are as follows:

- Identify what information should be withheld and what exemption/exception applies.
- If you are considering using the exemptions in sections 23 or 24 (“Info supplied by or relating to bodies dealing with security matters” or “National Security”), you must contact CIO Information Access Special projects immediately who will refer the case to the National Security Liaison Group.
- Redact or remove exempted information. Local guidance on how this should be done is available and depends on the format of the information and the tools available within the organisation. *See Guidance Note E8: Redacting.*
- Set out the justification for each exemption/exception (i.e. the background to the use of each exemption, why it is applicable and the reason why the public interest in withholding the information outweighs the public interest in disclosure). This must be approved at 1\* level unless a lower level has been agreed locally. This will be covered in local guidance.
- Explain to the applicant which exemptions/exceptions have been used to withhold the information, why it is applicable and the public interest issues. Although the word “public” appears in the title “Public Interest Test”, this does not mean that the PIT document is public property. In examining the ‘for’ and against’ arguments for release in relation to the application of qualified exemptions it is often necessary to discuss the actual information that may subsequently be withheld if the balance falls in favour of withholding it; these arguments should be recorded in full.
- The PIT is part of the meta data of the response, not the response itself. Keep it simple: explain the outcome of the PIT in your response letter to the requestor. A short paragraph briefly explaining the points you considered in favour and those against will do.
- 9.2 It is very important to consider the possibility that releasing information in response to a request could have wider implications. **The normal procedures for informing Ministers and Senior Officials should therefore be followed when appropriate.** This will be especially important if there is a prospect that the disclosure of information may draw criticism or cause embarrassment to the MOD. In particular if the information to be disclosed (or the fact that information is being withheld) is likely to be newsworthy you must contact the relevant **press officers** and ensure that they are provided with appropriate briefing and lines to take. *See Guidance Note D4: Requests with wider implications*

### Information to keep in relation to a request for information

10. A case record of each FOI request must be kept, including cases that you did not process in full – for example, because this would have exceeded the appropriate cost limit, because the request was vexatious, or because you referred the requester to someone else, either within or outside MOD.

10.1 Current recommended best practise is to keep the full documentation for at least 5 years. This must include the requested information, a record of what was released (where different) and an audit trail of any public interest test including the records showing consultation with third parties and decisions on release. Some information, for example that related to the decision taken to release a redacted version of documents where consideration of the balance of public interest has required significant deliberation, will be a vital part of the audit trail until superseded by a subsequent decision. A longer retention period will be required (minimum 10 years) for such information. This must include the full version of the document and the redacted version exactly as it was released to the applicant. If the reply to a request is that information is not held, a record

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must be kept of all those parts of the department which were contacted in the search. If the “not held” response is based on established policy that the information requested is retained for a finite period, the authoritative source of this policy (e.g. departmental or local instruction must also be retained as part of the audit trail. Similarly, if it has been confirmed that the information is not held because its disposal is shown in a document register or destruction certificate, the relevant entry must be retained.

**10.2 Information for Internal Review.** If a case is referred for internal review Info-Access will require a copy of all the key papers relating to the handling of the request, even those later deemed not to be in its scope. The request must be logged and tracked on the AIT. Lead branches are required to keep copies of the following:

- The original request
- The information considered to be within the scope of the request (where there is a large volume of documents it may be helpful to produce a schedule of the documents in the form of a table).
- If information was not held, a record of all those parts of the department which were contacted in the search.
- Any acknowledgement of the original request.
- Any letters of clarification, e-mails or records of telephone calls with the requestor.
- Any notifications of additional time to examine the public interest.
- If information was withheld or redacted, an annotated copy of the information in scope showing which exemption has been applied against each individual redaction (in schedule format is large volume of documents).
- Documents setting out the public interest test if qualified exemptions were used to withhold information
- Where Section 12 is applied (exceeds the cost limit for compliance) details of how cost was calculated
- Any communications with, opinions of, or advice from third parties on release (including the MOJ Clearing House or OGDs if they advised).
- Evidence of 1\* approval to use qualified exemptions.
- The final response sent (signed and dated) along with a copy of any information disclosed to the requestor.

**10.3 Information on disposal schedules.** When you receive a request for information that is on a disposal schedule, known to be due for destruction, you must deal with the request and suspend destruction of the information whilst the request is being processed. The Act does not prevent destruction of records in accordance with a schedule but it would be advisable to document your reasons for deciding whether the destruction decision still stands so that you are in a position to respond to any complaints or appeals. The **minimum** retention period for information falling into this category is 2 years from the date of the last correspondence, or from the conclusion of the appeal. **Documentation of the disposal activity at the policy, schedule and file level will be particularly important to account for records that cannot be confirmed as present in response to a request, a complaint or an appeal.** *For more information on disposal schedules see [JSP 441 chapter 5](#).*

**10.4 Data protection implications.** The 'case record' is likely to contain information that constitutes personal data. That is data relating to a living individual who can be identified from that data (see [Defence Intranet | Admin | Comply with the Data Protection Act](#) for a full definition)

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Some examples of personal data that are likely to form part of the record of an FOI request are the name and address of the enquirer and any personal details provided by the enquirer (either about himself or another person) when making his/her request. The nature of the information requested may also reveal sensitive personal data e.g. racial or ethnic origin, physical or mental health or condition and other personal details of a private nature. All personal data must be handled in accordance with the Data Protection Act 1998 (DPA 98). Inter alia, this means that it must be processed fairly and lawfully which requires that the enquirer is not deceived or misled as to the purposes for which his/her personal data is being processed. In relation to FOI requests, this means that the personal information provided may only be used for the purpose of providing a reply and that it must not, for example, be disclosed to any third party not involved in processing the request unless the enquirer was informed about the additional processing when the data was collected. DPA98 (data protection principle 5) also says that personal data may be retained only for so long as this is necessary. Retention in line with the minimum retention periods set out in this section will represent necessary processing. An important factor to note is that the personal information is not kept indefinitely unless it has archival value. Further guidance about DPA98, including retention of personal data is available at [Defence Intranet | Admin | Comply with the Data Protection Act](#)

**Templates for Responding to Requests for Information**

11. Examples of standard templates for responding to requests for information can be found in the Related Documents tab on the defence intranet FOI Guidance page.

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**Annex A– Template sent to Focal Points when request has been logged on AIT**

Dear Focal Point(s)

The Freedom of Information (FOI) request for information (RFI) below has been placed with you, but not confirmed on the Access to Information Toolkit (AIT). [insert details here, of which area should answer which part of the RFI, if it has been broken into different sections]

Please acknowledge within two working days that you are the appropriate area to respond, or lead, and we will confirm this on AIT. You should respond to the requester within twenty working days of the date the request was made. If you consider another area is more appropriate to respond or lead, then please approach them, also within two working days. Please engage with the FOI Helpdesk at all times when you are looking to place a request elsewhere. The FOI Helpdesk will be pleased to assist during this process.

This request will be automatically allocated to your area, on AIT, after three working days, if the FOI Helpdesk receives no receipt or evidence of action to place the request elsewhere.

If you are copied into this email, you may be a relevant contributor to the response and you should liaise with the lead respondent.

This process is set out to maximise the amount of time to find information and respond, when this request has been placed with the appropriate subject matter expert.

If the FOI request has been submitted by the media, or if you are concerned about potential media interest in the FOI response please contact MOD Press Office prior to release. Whether the potential for interest is new or existing, please ensure that press officers have sight of the release before sending, with appropriate and realistic deadlines for when you need a reply from them. Please send your draft and any supporting information to Directorate Media and Communications (DMC) addressed to xx)

Lastly, please see further headline guidance on FOI correspondence at the attached, or detailed guidance (including model answers) at:

<http://defenceintranet.diiweb.r.mil.uk/DefenceIntranet/Admin/RespondToRequestsForInformation/>

If you have any concerns, or require any assistance with FOI, please contact Info-Access Operations, we are here to help.

Best regards

CIO-CI-Access

Freedom of Information Helpdesk

Telephone: xxxxxxxxxxxxxxxx

Email: CIO-FOI@mod.uk

AIT: <http://aitportal/>

[FOI RFI here]

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**Annex B - A response to an MC FOI (RFI from a Parliamentarian) must:**

1. Comply with the Freedom of Information (FOI) Act 2000 and FOI MOD/Ministry of Justice guidance – full response sent within timeframe, use of exemptions, compliance of release, public interest tests and refusal under cost constraints.
2. **Be supported by a Ministerial Submission with a draft reply attached** for the relevant Minister to respond. **The response must not be sent by the SME or FP.**
3. Be split into two separate ministerial draft replies if the request contains both a request for recorded information **and** seeks views and opinions on any matter (for example seeks clarification of policy or explanation of actions taken by the Department). In the second instance, a Minister may wish to include recorded information to strengthen an argument, but this should not be treated as a response under the Act.
4. Contain the standard FOI paragraphs at the end of the FOI element of the response – explaining the complaints procedure and giving the option for informal resolution and/or internal review.
5. Contain a sentence informing the Parliamentarian that a request under the Act can be made by any individual, and in this case we are treating the request as being made by the Parliamentarian – this is if a Parliamentarian has sent an RFI on behalf of a constituent.
6. Be submitted to the Minister's office in time for a response to be sent within 20 working days, as the Act requires. The Department has, however, undertaken to answer all correspondence within 15 working days and Lead Branches should aim for this timescale to be met whenever possible.
7. Be sent to the Minister's office with a note clearly seeking clarification from the Minister's office of when the response was sent, so it can be closed on the AIT system by the SME/FP.
8. Formatted in Arial Font 12, double spaced, and follow the general 'good practice' rules that govern the handling of Ministerial Correspondence.